



Volume 34 | Issue 1

Article 7

December 1927

The West Virginia Law Quarterly

Follow this and additional works at: <https://researchrepository.wvu.edu/wvlr>



Part of the [Legal Education Commons](#)

Recommended Citation

The West Virginia Law Quarterly, 34 W. Va. L. Rev. (1927).

Available at: <https://researchrepository.wvu.edu/wvlr/vol34/iss1/7>

This Editorial is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact ian.harmon@mail.wvu.edu.

dents who entered the first year class a year ago who could not have met these additional requirements. Had it not been for the increase in requirements, it is probable that the school would have increased something over twenty students. The normal growth therefore, appears to have more than taken care of the loss which would have been caused by these additional requirements.

The object of the requirements is to eliminate at the beginning those students who in the past have been eliminated by failure at the end of the first semester. In the past out of a first year class of seventy to seventy-five there has been an average of twenty-five who have been dropped because of their inability to meet the standards of scholarship. It is hoped that by requiring an average of at least "C" to enter, the proportion of those who have to be dropped will be decreased.

It is interesting to note that the number of students who are taking the combined law degree and A.B. degree in six years has more than doubled this year. Last year there were six Arts and Science seniors in the first year class and this year there are thirteen. While the numbers are still small the percentage of increase is very encouraging.

THE WEST VIRGINIA LAW QUARTERLY.—At the commencement of a new year we think it is not out of place to again define what the editors conceive to be the functions of a state law quarterly. In the first place we are not ambitious to imitate the Harvard Law Review or other law reviews which attempt a national scope. We believe that our field is local and if our magazine is to have a general interest it will be among those who are interested in determining just what the West Virginia attitude is on legal questions. It is our ambition in time to make our volumes the first reference work where anyone would turn for a discussion of West Virginia law. This does not mean that our articles will confine themselves entirely to West Virginia law where an able article is sent in dealing with subjects of more general application. Nevertheless, our principle aim shall be to discuss legal questions from a West Virginia point of view. This will be particularly brought out in notes on recent cases and comment. We hope to increase the number

of notes and the number of discussions of recent cases to such an extent that no practicing lawyer in West Virginia can afford to be without a copy of the West Virginia Law Quarterly. This, of course, is an ambitious undertaking, and in the fulfillment of this aim we will vary in effectiveness depending somewhat on the ability of the student board of editors to cover their field. It should be kept in mind that the faculty of the College of Law has a higher teaching schedule and is smaller in number than in most colleges which are attempting to cover a similar field. We are therefore, somewhat handicapped and we trust that allowances may be made if in every issue we do not completely meet our ideal of a state law quarterly. However, this may be remedied in time and in the meantime the student board of editors and the faculty board of editors will unite their efforts toward making the West Virginia Law Quarterly as complete as possible in covering the field of West Virginia law.

For example, we will cover in the next issue the recent cases of *Monongahela West Penn Public Service Company and Monongahela Transportation Company v. The State Road Commission of West Virginia, Reynolds Taxi Company et al.*, No. 6005, *The Baltimore and Ohio Railroad Company and West Virginia Transportation Company v. The State Road Commission of West Virginia, Reynolds Taxi Company et al.*, No. 6006, and *The Baltimore and Ohio Railroad Company and West Virginia Transportation Company v. The State Road Commission of West Virginia, Reynolds Taxi Company et al.*, et al., No. 6007, which are of importance not only in West Virginia but are of national significance. In this connection also we want to call the attention of West Virginia lawyers to methods of drawing up a subscription agreement for promoters of a corporation discussed by Professor Simonton in this issue. This is a subject of much importance to which little attention has been given by lawyers in this state.

The editorial board considers that the West Virginia Law Quarterly has a second important function and that is to become a clearing house for the ideas of the members of the bar. The board requests that members of the bar send in for discussion questions which interest them and which they regard as important in the development of the law of

this state. We will attempt to have these questions discussed either by the editorial staff or by members of the bar. Such discussion does not arise spontaneously because practitioners are too busy to think of writing to the Law Quarterly when questions of moment arise. However, we believe that if members of the bar association were properly approached they would be willing to put in concise and lawyer-like language the problems which interest them, and that other lawyers or members of the faculty can find time to comment on them. Such comment and discussion need not necessarily confine itself to actual recent cases in West Virginia, but to more general problems of rate-making, taxation, public utilities and legislation, which are becoming of importance.

A third function which the Law Quarterly hopes to create is a forum for the discussion of questions which will come before the Bar Association. For example, at the last meeting questions arose as to the proper methods of handling discipline and disbarment of attorneys and the question of state support of the Uniform Commission on State Laws. On neither of these questions was there time for an adequate investigation at the meeting. We hope that the pages of the Quarterly can be used for the purpose of discussing such questions in the interim between bar association meetings, and that there will be available at the time of the bar association meeting, through the pages of the Quarterly, carefully written discussions of the matters which the Bar Association desires to take up so that its work may become much more effective.

For example, Mr. Josiah Marvel, the guest of honor at the Bar Association meeting, as chairman of the Committee on Admissions and Discipline is desirous of a national discussion of the rule-making power of the courts. We have attempted to outline in this issue the elements of the proposal of increasing the rule-making power of the courts and believe that if further comment and discussion is had during the year through the pages of this Quarterly the subject will not be new if it is desired to take it up at the next meeting. In this way if we can have comment both favorable and adverse as to the various matters which are of interest to the bar association, the Quarterly can become

a real clearing house for the ideas of the bar and perform a function which few state law quarterlies are able to perform because they do not have supporting them such an active and interested bar as there is in West Virginia.

Needless to say in asking for comment on the various proposals discussed in the Quarterly the editorial staff desires adverse comment as well as favorable comment. It is only by publishing the adverse opinions as well as the favorable opinions on any proposition that any real benefit can be accomplished.

SUBSCRIPTIONS TO STOCK IN A CORPORATION TO BE ORGANIZED.¹—A group of persons may acquire the privilege of being a corporation by organization under the general corporation statutes but since the corporation to be formed must have stockholders, subscriptions to the stock must be secured in advance. This is commonly done by drawing up a subscription paper and having the subscribers sign the same. Under our law these subscribers cannot be bound by contract to a non-existent corporation. The courts in suits involving subscriptions to stock in corporations to be formed, have usually held that the subscription amounts to an offer by the subscriber to the corporation to take the amount of stock indicated, which offer the corporation, after it comes into being, may accept or reject, but being a mere offer it is revocable by the subscriber at any time before its acceptance by the corporation.²

The corporate promoter is a relatively new legal phenomenon.³ Prior to his appearance on the scene as an active business agency, the law had not had to deal with any situation where a person was negotiating and entering into large and important business arrangements for the benefit of a legal personality yet to be brought into existence but which such person, if his scheme succeeds, can bring into being. Hence the difficulty in fitting the activities of the promoter into the mosaic of legal rules and principles. But presumably the promoter is with us to stay, and since some

¹ The discussion does not include subscribers who sign the corporation paper as subscribers under the provisions of Ch. 54 §6 of the Code. Such subscribers must be held bound from the time such incorporation paper is filed. See *Greenbrier Industrial Exp. v. Rodes*, 37 W. Va. 738, 17 S. E. 305 (1893).

² See 14 C. J. 512-13; *MACHEN, CORPS.*, §249.

³ See Isaacs, "The Promoter—A Legislative Problem," 38 HARV. L. REV. 887.